

**MINUTES
of the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**October 8-9, 2015
San Jose Church Parish Hall
Los Ojos, New Mexico**

The fourth meeting of the Land Grant Committee for the 2015 interim was called to order by Representative Sarah Maestas Barnes, chair, at 10:08 a.m. on October 8, 2015 in the San Jose Church Parish Hall in Los Ojos, New Mexico.

Present

Rep. Sarah Maestas Barnes, Chair (10/8)
Sen. Ted Barela (10/8)
Sen. Lee S. Cotter
Rep. Miguel P. Garcia
Sen. Linda M. Lopez (10/8)
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Bob Wooley (10/8)

Absent

Sen. Jacob R. Candelaria, Vice Chair
Rep. David M. Gallegos
Rep. Jimmie C. Hall
Rep. Debbie A. Rodella
Sen. Sander Rue
Rep. Tomás E. Salazar

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros (10/8)
Rep. Randal S. Crowder
Rep. Matthew McQueen (10/8)

Rep. Paul C. Bandy
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom
Rep. Christine Trujillo

Guest Legislator

Rep. Patricia Roybal Caballero (10/8)

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Mark Edwards, Legislative Council Service (LCS)
Peter Kovnat, LCS
Alexandria Tapia, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are located on the New Mexico Legislature website (www.nmlegis.gov). Please see handouts for more presentation details.

Thursday, October 8

Representative Maestas Barnes welcomed the committee and audience members and asked all of those present to introduce themselves.

Newly Elected Board: Tierra Amarilla Land Grant-Merced Board

The newly elected members of the Tierra Amarilla Land Grant-Merced (TALG) introduced themselves to the committee and shared some thoughts on their backgrounds and experiences. Steve Polaco, board president, TALG, thanked the land grant's steering committee for helping the board to get organized, as well as recognizing Arturo Archuleta, a sometime staff member for the Land Grant Council, for his invaluable help. With a newly organized board, the land grant's first order of business is to establish bylaws, followed by completing the audit from the previous board. Mr. Polaco voiced his concern about the lack of education on land grants in the New Mexico school systems.

Belarmino Archuleta, board member, TALG, provided the committee with some history of the land grant and how his involvement came to be. Belarmino Archuleta noted that the new board members were properly elected by the members of the land grant and they plan to work toward recuperating what belongs to the TALG.

Carlos Chacon, board member, TALG, echoed the gratitude for the assistance and support of Arturo Archuleta and requested that the committee continue to fund the services of the Land Grant Council. Mr. Chacon added that the TALG seeks to establish its rights to graze, to water rights and to other functions that are important to its culture.

Melvin Apodaca, board member, TALG, highlighted some of the land grant's priorities, including working with the Land Grant Committee, seeking funding through legislation, plans for negotiating the purchase of a building on the land grant and working on an audit to address issues created by the previous board. For the benefit of new members of the committee, Mr. Apodaca briefly explained the background of an embezzlement issue implicating members of the prior board and mineral exploration contracts made with a Canadian company. The new board hopes to move forward and work to serve the members of the land grant.

Members of the committee congratulated the new board members on their elections and the work done to organize as a board. Land Grant Committee members asked the board several questions regarding the TALG's founding and current status. Issues raised during the discussion included:

- the original acreage of the land grant and its current boundaries;
- the status of the TALG's water rights;
- a building being considered for purchase by the TALG and potential funding for that purchase;
- status of the land grant's audit and coordination with the Office of the State Auditor;
- concerns over rights to passages used for grazing and moving livestock;
- the importance of the land grant's culture and history to be shared with youth; and
- the need to resolve the embezzlement issue and to establish adequate financial accountability measures going forward.

Acequias: Status Reports and Historic Connections to Land Grants-Mercedes

Ralph Vigil, chair, New Mexico Acequia Commission, testified before the committee on behalf of the commission. The New Mexico Acequia Commission, created by statute in the 1980s, is an advisory body to the legislature and the governor. The members are appointed by the governor and represent various geographic areas of the state. During monthly meetings, the commission provides a valuable forum for acequia issues statewide, giving the acequias representation in state government. Also presenting with Mr. Vigil was Paula Garcia, executive director, New Mexico Acequia Association (NMAA). The NMAA is a complementary body to the commission and was founded in 1989 for the purpose of building a united voice for acequias and to provide education and outreach to acequias. As a member-based organization, the NMAA's mission is to protect acequia-based water rights and to promote agriculture as part of acequias' economy and heritage. The NMAA has provided education and technical assistance to more than 400 acequias statewide on bylaws, infrastructure planning, audit and budget compliance and Open Meetings Act compliance.

David Benavides, managing attorney, Land and Water Rights Project, New Mexico Legal Aid (NMLA), addressed the committee regarding laws and legal cases relating to the Treaty of Guadalupe Hidalgo and water rights. Mr. Benavides asserted that there are two ways a land grant could claim water rights.

1. *Confirmed land grant-merced theory.* Relatively few courts have addressed how the Treaty of Guadalupe Hidalgo applies to water rights. Most of these cases involve instances of a confirmed Spanish or Mexican land grant-merced, in which the court has addressed the nature of the water right that was implicitly confirmed as part of the confirmation of the land grant.
2. *Alternative theory.* A water right is clearly property, however; so in theory, it should be protected under the treaty, independent of a land grant.

Mr. Benavides detailed a couple of legal cases relating to the assertion of water rights, specifically the Pueblo Rights Doctrine and its eventual abolishment under New Mexico law in 2004 (*State ex rel. Martinez v. City of Las Vegas*, 135 NM 375). To date, no land grant has tried

to lay claim to water rights; however, if one seeks to lay claim, it will have to address the ruling of the New Mexico Supreme Court in *Martinez v. City of Las Vegas*.

Ms. Garcia proceeded to provide the committee with an historical time line for the relationship between land grants and acequias. Ms. Garcia attested that their establishment was intertwined and that they continue to have a strong historical relationship. In modern New Mexico, acequias and land grants are governed at the local level as political subdivisions of the state. Acequias are charged with the management and governance of water rights that are attached to the farmland owned by their respective members. Land grants-mercedes are granted authority over their respective common lands.

Ms. Garcia summarized the work currently being done by the NMAA, in particular the workshops being held with the support of the Department of Finance and Administration (DFA) and the Office of the State Auditor covering the topics of budgets and audits. These workshops are intended to build capacity of the acequias to be compliant with DFA budget reporting and the Audit Act. The NMAA has also collaborated with the DFA on a workshop on infrastructure capital improvement plans (ICIPs) to inform acequias and other local governments about updated ICIP guidelines and on the method to prepare an ICIP.

Mr. Vigil updated the committee on the Cow Creek adjudication. The NMAA and NMLA have been available to assist acequias and individual landowners who may be claimants in the upcoming Cow Creek adjudication. The New Mexico Acequia Commission is working with the NMAA on education and outreach, particularly with regard to upcoming educational workshops. In closing, Mr. Vigil added that acequias are always on the defense; they are constantly being affected by water shortages and droughts, as well as economic development. Mr. Vigil also stressed the importance of promoting and protecting healthy watersheds through better methods of forest management. He believes that acequias and land grants should be recognized by the Tourism Department's "New Mexico True" campaign because of their historic significance and uniqueness to New Mexico.

In the ensuing discussion, committee members asked for more information about the membership of the NMAA, the history of farming and irrigation in the area and the relationship between the NMAA and conservation districts.

The committee also discussed the potential to establish an archive and library at the University of New Mexico (UNM)-Taos campus dedicated to the history of land grants and acequias.

Motion 1

Upon a motion by Senator Martinez, seconded by Representative Garcia, the minutes of the July and September committee meetings were approved.

United States Forest Service: Forest Updates and Collaborative Efforts with the Land Grant Council

John Miera, resources staff manager, Carson National Forest, United States Forest Service (USFS), provided an update to the committee on interactions among the USFS, several land grants and the Land Grant Council. Mr. Miera focused on their three recent collaborative successes.

1. *Advisory role.* The existing forest management plan for the Carson National Forest that oversees grazing, recreation, wood harvesting, wildlife management and other traditional uses is over 30 years old. The USFS currently is working to revise the plan and has formally sought the input of the Land Grant Council. The meetings have been very professional, productive and helpful. The Land Grant Council will continue to host the meetings.
2. *Foundation of a relationship with the Cristobal de la Serna Land Grant.* The USFS met with representatives of the Cristobal de la Serna Land Grant in August as a follow-up to the committee's meeting in July. They reached a mutual agreement to respect the use of traditional names of landmarks for some newly acquired lands in the Taos area. Land grant members will be included in the inventory process for that land. Additionally, both parties are strongly committed to having ongoing discussions regarding traditional uses.
3. *Piedra Lumbre Visitor Center.* For many years, the USFS operated a facility near Ghost Ranch that was a combination local history/geologic museum and wildlife zoo. It shut down a few years ago due to lack of tourist traffic and is deemed suitable for disposal. The USFS has been in discussions with the Land Grant Council and the Land Grant Consejo about the potential to sell this property to a land grant or a group of land grants for economic and cultural use. Certain authority granted to the USFS to allow for sole-source bids on the property expires after 2016, so there is some urgency to expedite these discussions.

Mr. Miera requested that the committee put any questions and requests for clarification in writing to Forest Supervisor James Duran to get timely, clear and efficient answers. He encouraged candid feedback from the committee to continue building communication, dialogue and a successful relationship.

Elaine Kohrman, forest supervisor, Cibola National Forest, USFS, echoed the value of having the land grants represented in the development of the forest plan revision. The land grants have provided education and increased awareness of land grant history to the staff working on the project. Ms. Kohrman noted the interest to institutionalize this method of collaboration, making this more than a one-time effort.

Maria Garcia, forest supervisor, Santa Fe National Forest, USFS, addressed the committee with prepared remarks relating to the Truchas Land Grant boundary, Abiquiu Land

Grant road easements, San Joaquin del Chama cemetery and the forest plan revision. Ms. Garcia provided background as well as an update about each of the four respective topics. (Her statement can be located on the New Mexico Legislature website (www.nmlegis.gov).)

Juan Sanchez, chair, Land Grant Council, confirmed the council's successful collaboration with the USFS. Mr. Sanchez voiced the council's pleasure at the USFS's willingness to understand the issues of the land grants. The USFS intends to include traditional uses in the forest plan revision, which was not the case in the past. Mr. Sanchez added that land grants are stewards of the land and that they hope to continue to work with the USFS. Arturo Archuleta shared Mr. Sanchez's views and credited the individual land grants and the Land Grant Consejo for their dedication to this collaboration.

Members of the committee asked questions relating to the forest plan revision and the decision-making process. Members of the committee expressed concern over wilderness and national monument designations and the implications they would have on land grants' traditional uses. The committee encouraged the continued collaboration between the land grants and the USFS, citing these efforts as a model for future relationships between land management agencies and land grants.

Land Grant Council: Status Update

Mr. Sanchez provided the committee with an update on the Land Grant Council, as well as a breakdown of how funding was used in fiscal year (FY) 2015. In FY 2015, the Land Grant Council received a \$99,700 general fund appropriation from the legislature. The council's FY 2016 budget was increased to \$174,700. However, to date, the council has only been able to expend approximately \$900 for mileage and per diem of council members. This is due to the fact that the DFA has not yet executed a contract with UNM, as requested by the council. The contract would allow UNM both to house the council and provide staffing and administrative support to the council in fulfilling its mission. Because of this hold on the funding, the council has been unable to hire any staff. Arturo Archuleta was the last staff member for the council, but his contract lapsed at the end of June.

Mr. Sanchez and Arturo Archuleta detailed the accomplishments of the Land Grant Council throughout FY 2015 and up to the present. The accomplishments were divided by the different duties of the council enumerated in the Land Grant Support Act (Section 49-11-4 NMSA 1978) and were illustrated with specific accounts by which they were fulfilled. These duties include:

- assisting land grants in all areas of fiscal and programmatic management, including planning, economic development and infrastructure development;
- facilitating or entering into agreements with state and federal agencies on behalf of land grants;
- entering into contracts to carry out the purposes of the Land Grant Support Act;
- facilitating the exchange of experience and advice among land grants;

- serving as a liaison between land grants and federal, state and local agencies;
- providing development opportunities and technical assistance to the governing boards of land grants;
- providing short- and long-range planning assistance to land grants;
- conducting training sessions for land grants on topics of interest;
- disseminating information to relevant federal, state and local agencies on land grant issues and activities and, when requested, on the status of individual land grants;
- developing and promoting federal legislation for an appropriate congressional response to long-standing community land grant claims in New Mexico; and
- reviewing state and federal policies, plans and legislation affecting land grants in New Mexico.

Mr. Sanchez concluded the update by submitting the council's budget recommendations for the upcoming session. For FY 2017, the council is requesting to increase its budget to \$500,000. A budget increase of this amount would provide the necessary resources for the council to be properly staffed and to expand the services offered to land grants, thereby increasing the council's capacity to better fulfill its statutory mission.

Motion 2

A motion was made by Representative Maestas Barnes to send a letter on behalf of the committee to the DFA regarding the Land Grant Council's budget and urging the execution of the contract that would release those funds. The motion was seconded by Representative Garcia, and it passed without objection. A committee member stated an intent to personally contact the DFA regarding this issue.

Public Comment

Medardo Sanchez, president, La Asociacion de las Acequias Norteñas del Rio Arriba, thanked the committee for taking the time to listen to the land grants' issues. Mr. Sanchez encouraged the development of the watersheds and the emphasized the importance of their management.

Recess

There being no further business, the committee recessed at 4:11 p.m.

Friday, October 9

Tour of Tierra Amarilla Land Grant-Merced

Committee members toured portions of the Tierra Amarilla Land Grant, including the building that the land grant board would like to purchase and the historic "Tierra o Muerte" hilltop. Committee members also toured the Piedra Lumbre Visitor Center that is up for disposal by the USFS.